



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 24, 1995

Mr. George A. Nies
Chief Appraiser
Hutchinson County Appraisal District
P.O. Box 5065
Borger, Texas 79008-5065

OR95-082

Dear Mr. Nies:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 28158.

The Hutchinson County Appraisal District ("the district") received seven requests to inspect and copy the following information concerning the property of seven different companies:

all appraisals and assessment related information, including sole documents, work papers, and engineering drawings from the 1993 tax year.

You submitted the records of one of the companies as a representative sample of the records at issue. You inform us that the appraisals on the property of each of the seven companies were conducted by the appraisal firm of Pritchard & Abbott. *See* Tax Code § 25.01(b). You also state that "it is my understanding that Pritchard & Abbott relied to a great extent on income and expense information furnished them by Phillips 66 under a promise by Pritchard & Abbot that such information be held confidential, and not open to public inspection." You also state that "each respective company considers the additional information they provide as an extension to their confidential rendition" Finally, you state that the flow charts and inventory detail sheets that you enclosed are trade secrets.

Section 552.101 of the Government Code excepts from required public disclosure information considered to be confidential by law. You assert that the requested information is confidential under section 22.27(a) of the Tax Code, which states as follows:

(a) Rendition statements, real and personal property reports, and income and expense information related to a property filed with an appraisal office and information voluntarily disclosed to an appraisal office or the comptroller about real or personal property sales prices after a promise it will be held confidential are confidential and not open to public inspection. The statements and reports and the information they contain about specific real or personal property or a specific real or personal property owner and information voluntarily disclosed to an appraisal office about real or personal property sales prices after a promise it will be held confidential may not be disclosed to anyone other than an employee of the appraisal office who appraises property except as authorized by Subsection (b) of this section.

(b) . . . [listing 6 situations in which information made confidential by subsection (a) may be released]

Section 22.27 applies to four basic types of information: rendition statements, real and personal property reports, income and expense information related to property, and information about real or personal property sales prices when such information is disclosed to an appraisal office after a promise that the information will be kept confidential. You are concerned about income and expense information that Phillips 66 voluntarily disclosed to the appraisal firm after the firm promised it would be kept confidential. You also say that some of the information is a "breakdown" of information supplied on the rendition statement.

We agree that the information the company submitted as part of the rendition, as well as all income and expense information that the firm agreed to keep confidential must be withheld from required public disclosure under section 552.101 of the Government Code in conjunction with section 22.27 of the Tax Code, unless one of the exceptions in subsection (b) of section 22.27 applies.

Subsection (b) of section 22.27 contains the following exception for information made confidential under subsection (a):

(6) if and to the extent the information is required to be included in a public document or record that the appraisal office is required to prepare or maintain.

Under subsection (b), if the information at issue is "required to be included in a public document or record that the appraisal office is required to prepare or maintain," such information is not subject to the confidentiality of section 22.27(a). *See* Open Records Decision No. 347 (1982) at 3.

All appraisal district offices appraising property for purposes of ad valorem taxation are required to maintain appraisal records of all property the office is required to appraise. *See* Tax Code § 25.01; 34 T.A.C. § 9.3004(a). These appraisal records must contain certain information, including the name and address of the owner, a general description of taxable personal property and location thereof, and the appraised value of personal property. *See* Tax Code § 25.02; 34 T.A.C. § 9.3004(b). Appraisals and their "supporting data" are public records pursuant to section 25.01(c) of the Tax Code.

Thus, to the extent that such information contains information that is required to be in the appraisal records, such information must be disclosed. *See* Open Records Decision No. 347. All information that is not required to be included in the appraisal records or other public records that the appraisal office is required to prepare or maintain is confidential under section 22.27 of the Tax Code. *See id.*

We note that one set of documents was evidently generated by the appraisal firm. You describe this set of information as a "summary report" and explain that these documents contain information that Phillips 66 supplied after being promised that it will be kept confidential.

Another provision in the Tax Code controls the release of portions of the information on these documents. Section 25.01(c) of the Tax Code reads as follows:

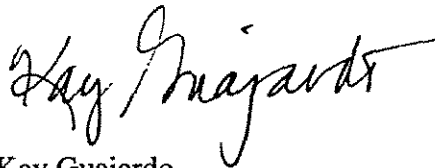
A contract for appraisal services for an appraisal district is invalid if it does not provide that copies of the appraisal, together with supporting data, must be made available to the appraisal district and such appraisals and supporting data shall be public records. "Supporting data" shall not be construed to include personal notes, correspondence, working papers, thought processes, or any other matters of a privileged or proprietary nature.

Pursuant to this provision, an appraisal firm's appraisal and "supporting data" are public information. We think "supporting data" here means the numbers the firm used to reach the appraised value, that is, the data that justifies the appraisal. The provision also states that certain information is not "supporting data," including the appraisal firm's "working papers."

We must determine whether these documents are the appraisal firm's "working papers" or the "supporting data" for the appraisals. We believe that these documents contain the appraisal and "supporting data." Section 25.01(c) does not require an appraisal firm to make available to an appraisal district its "working papers," since "working papers" are expressly excluded from the meaning of "supporting data." As the appraisal firm has made this information available to the appraisal district, we can conclude that in order to comply with section 25.01(c), the firm has provided its appraisals and "supporting data." Thus, pursuant to section 25.01(c) of the Tax Code, the appraisal district must release the appraisal and the supporting data on the appraisal firm documents.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Government Section

KHG/SLG/rho

Ref.: ID# 28158

Enclosures: Submitted documents

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(w/o enclosures)